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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,264	12/22/2000	Stephen John Blanchard	PPC-775	9836

7590

07/19/2002

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EXAMINER

WEBB, JAMISUE A

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 07/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/746,264

Applicant(s)

BLANCHARD ET AL.

Examiner

Jamisia A. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 May 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 5 recites the limitation "the absorbent structure" in lines 4-5. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3, 5, 6, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Glassman (4,758,240).

6. With respect to Claims 1 and 10: Glassman discloses the use of a sanitary napkin (see Figure 2), with a main body portion, a topsheet (19), backsheet (24), and an absorbent core (15). The napkin having two longitudinal and two transverse edges, a central region, front end region and a rear end region (See Figures 2-4). Glassman discloses more than two longitudinal hinges (18, 12a) located substantially in the center region and is located between the central longitudinal

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axis and the longitudinal edges (see Figure 2), is capable of bending, therefore providing a bending axis, and where one hinge is curved and one hinge is strait. (see Figure 2).

7. With respect to Claim 3: See Figure 2.

8. With respect to Claims 5 and 6: See column 4, lines 15-34.

9. With respect to Claim 11: Glassman discloses multiple hinges (18) that are curved and the inner one and outer one having different radius. (see Figure 2).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 2, 4, 7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glassman (4,758,240).

13. With respect to Claim 2 and 4: Glassman discloses the claimed invention except for the strait line being towards the outside of the napkin and the curved line being towards the inside of the article. It would have been an obvious matter of design choice have the strait line towards the outside of the napkin and the curved line being towards the inside of the article, since applicant has not disclosed that the strait line towards the outside of the napkin and the curved line being towards the inside of the article solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the strait line towards the center of the napkin and the curved line towards the outside.

14. With respect to Claim 12: Glassman discloses the claimed invention except for the first hinge having a lower radius of curvature than the second hinge. It would have been an obvious matter of design choice have the first hinge having a lower radius of curvature than the second hinge, since applicant has not disclosed that the first hinge having a lower radius of curvature than the second hinge solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the first hinge having a greater radius of curvature than the second hinge.

15. With respect to Claim 7: Glassman discloses that the hinges/channels are formed by compressions in the absorbent material, therefore forming densified areas (column 4, lines 23-27). Glassman's grooves have a density, however Glassman does not disclose the specific density of over 0.5 g/cm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the density of the grooves, be greater than 0.5 g/cm, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205USPQ 215 (CCPA 1980).

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16. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glassman (4,758,240) in view of Coles et al. (5,672,642).

17. With respect to Claim 8: Glassman, as disclosed above for claim 1, fails to disclose densified end channels. Coles discloses the use of longitudinal hinges, with barrier end channels (17), that are regions of the core that wax is applied to, it is the examiner's position that wax is denser than core material, and therefore form dense channels. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the sanitary napkin of Glassman, include densified end channels, as disclosed by Coles, in order to prevent end soiling at the edges of the napkin (see Coles, column 1 and 2).

18. With respect to Claim 9: Coles discloses the side channels and end channels being more than 3mm apart. (See figure 3).

Response to Arguments

19. Applicant's arguments filed 5/1/02 have been fully considered but they are not persuasive.

20. Applicant has argued that Glassman does not teach that the channels are confined to the central region of the pad, and instead extend into the transverse end regions of the pad: The applicant has claimed the hinges are located "substantially within the center region" and as shown in Figure 2 and in Figure 3, the hinges do not extend to the ends of the article, and therefore the substantial part of the hinges are located within the center region, therefore it is the examiner's position that Glassman does disclose this claim limitation, see rejection above.

21. With respect to Applicant's arguments that Glassman does not disclose hinges because Glassman states that it does not permit the down folding of the napkin at the sides: A hinge allows something to pivot about a point. Glass man discloses that "while being worn" the sides

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will not fold downwards, however as seen in Figure 8, the grooves allow the sides to fold upwards, therefore creating a hinge to allow the sides to pivot upwards. Furthermore, the groove of Glassman itself is capable of allowing the article to be bent upwards and downwards, for instance when it is in a user's hands and the user is bending the sides up and down, it will bend along the groove, therefore being a hinge. Rejection stands as stated above.

22. With respect to Applicant's arguments that the switching of locations of the curved hinge and the strait hinge would not be obvious due to the fact that it would render the invention inoperable for its intended purpose: Glassman does not disclose that the having the grooves on the inside would teach away from the invention, therefore it is unclear how switching the curved grooves with the strait grooves would render the invention inoperable. It is the examiner's position that switching the grooves would still allow lateral compression of the sides, due to the fact that the grooves would be facing the same direction. Furthermore, Figure 2 of Glassman discloses multiple sets of grooves that are curved and strait, and has a curved groove located closer to the centerline, than a strait groove, therefore rejection stands as stated above.

23. Attorney has argued the combination of Glassman and Cole, in terms of them not disclosing hinges, as disclosed above, it is the examiner's position that Glassman does in fact disclose hinges, and therefore rejection stands as stated above.

Conclusion

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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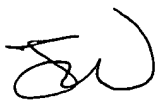
MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dennis Ruhl can be reached on (703)308-2262. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw
July 16, 2002



DENNIS RUHL
PRIMARY EXAMINER